

# MAINE STATE LEGISLATURE

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STATE OF MAINE

# 117th MAINE LEGISLATURE

## SECOND REGULAR SESSION-1995

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Legislative Document

No. 1606

H.P. 1174

House of Representatives, December 8, 1995

**An Act to Amend the Overtime Laws as They Pertain to Bonuses.**

(EMERGENCY)

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Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.  
Received by the Clerk of the House on December 6, 1995. Referred to the Committee on  
Labor and ordered printed pursuant to Joint Rule 14.

A handwritten signature in black ink that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative WINSOR of Norway.  
Cosponsored by Senator MILLS of Somerset and  
Representatives: DUNN of Gray, STONE of Bangor, UNDERWOOD of Oxford, VIGUE of  
Winslow.

2           **Emergency preamble.** Whereas, Acts of the Legislature do not  
become effective until 90 days after adjournment unless enacted  
as emergencies; and

4  
6           **Whereas,** the Legislature amended the minimum wage law in the  
First Regular Session of the 117th Legislature, in part, to make  
it easier to understand; and

8  
10           **Whereas,** some members of the business community are confused  
about whether the law was intended to require a change in the  
calculation of overtime pay; and

12  
14           **Whereas,** this law affects many Maine employers and employees  
and should be clarified as soon as possible; and

16           **Whereas,** in the judgment of the Legislature, these facts  
create an emergency within the meaning of the Constitution of  
Maine and require the following legislation as immediately  
18 necessary for the preservation of the public peace, health and  
20 safety; now, therefore,

22           **Be it enacted by the People of the State of Maine as follows:**

24           **Sec. 1. 26 MRSA §664, sub-§3,** as enacted by PL 1995, c. 305,  
§1, is amended to read:

26  
28           **3. Overtime rate.** An employer may not require an employee  
to work more than 40 hours in any one week unless 1 1/2 times the  
regular hourly rate is paid for all hours actually worked in  
30 excess of 40 hours in that week. The regular hourly rate  
includes all earnings, bonuses, commissions and other  
32 compensation that is paid or due based on actual work ~~performance~~  
performed and does not include any sums excluded from the  
34 definition of "regular rate" under the Fair Labor Standards Act,  
29 United States Code, Section 207(e).

36           The overtime provision of this section does not apply to:

- 38           A. Automobile mechanics, automobile parts clerks and  
40 automobile salesmen as defined in section 663;
- 42           B. Hotels and motels;
- 44           C. Mariners;
- 46           D. Public employees;
- 48           E. Restaurants and other eating establishments; and

2 F. The canning, processing, preserving, freezing, drying,  
marketing, storing, packing for shipment or distribution of:

4 (1) Agricultural produce;

6 (2) Meat and fish products; and

8 (3) Perishable foods.

10 **Emergency clause.** In view of the emergency cited in the  
preamble, this Act takes effect when approved.

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### STATEMENT OF FACT

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This bill clarifies that the calculation of overtime pay  
under Maine law is intended to be identical to the calculation of  
overtime pay under the federal Fair Labor Standards Act.

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